

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to administer the Nebraska Telehealth Program.

**Application No.
NUSF-57**

**QWEST CORPORATION'S COMMENTS IN RESPONSE TO
PROGRESSION ORDER NO. 2**

Qwest Corporation ("QC" or "Qwest") files the following initial comments in response to Progression Order No. 2 entered in this docket.

Issues 1 and 2

The Commission set three issues for comment in this docket, but Qwest proposes a solution that should help address the first two issues, which revolve around making sure that the proper forms and filings are made to accomplish reimbursement timely. Currently, medical facilities in the telehealth program pay a minimal amount – usually \$100 – each month for the services they receive, until Qwest receives reimbursement from USAC. After the USAC reimbursement is received, the medical facility pays nothing until the resulting credit is exhausted. Then the cycle is repeated.

This structure places Qwest in the position of financing the medical facilities' services until reimbursement is received. Because the medical facilities do not pay the full costs of the services they use, medical facilities have little incentive to timely submit forms or other filings to accomplish reimbursement. Accordingly, Qwest proposes that medical facilities be required to pay the full catalog or contract price for the services they use until the USAC reimbursement is received. This provides incentives for prompt reimbursement, and requires the user of the services to pay for them – at least until

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USAC reimbursement is delivered. Qwest should not be placed in the position of providing services for free while the parties wait for reimbursement.

This structure would accomplish more to facilitate prompt filings and reimbursement than new procedural rules ever could, because this structure places the costs on the user and provides the correct incentives. Qwest urges the Commission to implement this structure as part of its telehealth policies.

Issue 3

The third issue presented for comment revolves around the execution of a letter of agreement, or LOA. The LOA is not actually an agreement for services, but rather a memorandum of understanding between a carrier and a health facility regarding the process for obtaining reimbursement. The LOA is typically in the form attached as Exhibit A.¹ Exhibit A also shows Qwest's proposed redline changes to the letter, which are explained here. In general, Qwest's proposed changes seek to reflect USAC rules where applicable (USAC rules may be located at <http://www.usac.org/rhc/about/>). These memorandums of understanding do not fit well as part of the typical contract for service, since medical facilities purchase services out of tariffs and under contracts applicable to many other customers. It is acceptable for these documents to be separate from the contracts for services to recognize the unique nature of the Telehealth system and relationships. With that understanding, Qwest offers the following changes:

1. *First sentence, change "agreement" to "understanding":*

¹ The attached LOA is a proposed LOA for Two Rivers Public Health Department with redlines to show revisions. The Two Rivers template document is presented merely for illustrative purposes, not to make any comments concerning Two Rivers specifically.

It may be helpful to refer to the letter as a letter of understanding rather than agreement – not to diminish the obligations thereunder, but to distinguish the undertaking in the letter from the agreement for services.

2. *Middle of first paragraph – add “The expectations set forth below are based upon the USAC Rural Health Care Program process in effect on this date. Should those processes change, the Public Health Department and Carrier will follow the USAC Rural Health Care Program process as modified.”*

Qwest suggests adding language to clarify that the LOA should reflect USAC rules as they evolve. This change will allow the parties to continue under the existing agreement without amending the document or creating legal uncertainty with each USAC rule change.

3. *End of first paragraph: add “Regardless of whether specifically stated, all references to specific Forms below include its equivalent Form.”*

There is a form 466A currently in effect related to internet services; this change is intended to allow such equivalents to be used. Similar changes are proposed for subsequent paragraphs.

4. *Expectations paragraph, section 1: add “A separate Form 465 must be completed for each physical location that is eligible to receive support.”*

This language was added directly from the USAC rules.

5. *Expectations paragraph, section 2: add “and posting” to first sentence.*

Posting by USAC of the form 465 filing is what triggers the 28-day waiting period, not merely acknowledgement. This language was added to reflect USAC rules and policy.

6. *Expectations paragraph, section 2: add “and an agreement is reached with the Carrier for the services to be provided” and other editorial changes*

This language was added to reflect USAC rules. USAC rules require the

agreement for services to be in place, and require the Public Health Department to provide and file the form 466. Qwest is pleased to assist in this process, but cannot take responsibility to "provide" this information.

7. *Expectations paragraph, section 4: change first clause to read "Within ten (10) working days from the date that the Public Health Department receives the Funding Commitment Letter and a copy of the USAC Form 467, and the Carrier has begun providing services,"*

Again, this change simply attempts to utilize USAC rules and language where possible.

8. *Expectations paragraph, section 5: add "Once the Health Care Support Schedule is received from USAC, the Carrier will begin crediting the bill with the monthly recurring support amount indicated in the Health Care Support Schedule on the next available invoice or will issue a check to the Public Health Department for the discount amount."*

This language is added to reflect USAC rules.

9. *Expectations paragraph, section 5: requires payment of invoiced amount, rather than the bill minus expected USAC funding*

This change is proposed to effect the policies outlined in response to the first two issues. This process is consistent with a large majority of Qwest's other distributions through USAC, a policy utilized by schools and libraries programs. Medical facilities should bear the cost of the services they use until the subsidy is received.

10. *Add "work in good faith language" before addendum; delete addendum.*

The existing language, combined with the addendum, makes it difficult for parties to work out differences or be flexible with deadlines. Qwest's proposal would still allow any party to seek Commission intervention for any dispute or alleged failure under the Telehealth program – but Qwest's proposal allows for the parties to work together first to avoid the need for such involvement.

Dated: January 20, 2009

Respectfully submitted,

QWEST CORPORATION

By: 

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EXHIBIT A



Public Health Department

701 4th Avenue, Suite 1
Holdrege, NE 68949
Web site: tworiverspublichealth.com

Phone: 308.995.4778
Fax: 308.995.4073
Toll-Free: 888.669.7154



Public Health
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Priscilla Bragg
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Rodney Metzger
Harian County

Ross Wright
Kearney County

Harold Raburn
Phelps County

Nancy Garrelts
Phelps County

Dr. Scott Ehresman
Phelps County

January 20, 2009

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Deleted: September 12, 2008

Deleted: September 8, 2008

Name
Address
Town, State Zip

Dear _____,

The following is a letter of understanding between Two Rivers Public Health Department/designee and _____/carrier, which outlines the expectations of both entities in regards to the annual filing process for telecommunications funding support through the Universal Service Administrative Company (USAC). The expectations set forth below are based upon the USAC Rural Health Care Program process in effect on this date. Should those processes change, the Public Health Department and Carrier will follow the USAC Rural Health Care Program process as modified. Specifically, funding is requested through the Rural Health Care Division (RHCD) of USAC, which requires the submission of accurate support documentation and the completion of various funding request forms to obtain the maximum allowable support through this program. Regardless of whether specifically stated, all references to specific Forms below include its equivalent Form.

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The following will be the expectations of both the Public Health Department/designee and the Carrier:

1. On an annual basis, the USAC – Rural Health Care Division declares the “window opening” for the filing process to begin for eligible entities with the Form 465. Within ten (10) working days of this declaration (opening of the window), the Public Health Department/or their designee will file the USAC Form 465 or its equivalent. A separate Form 465 must be completed for each physical location that is eligible to receive support.
2. Following the 28-day waiting period after the acknowledgement and posting by USAC of the Form 465 filing and an agreement is reached with the Carrier for the services to be provided, the Carrier will assist the Public Health Department by providing information necessary from the Carrier to enable the Public Health Department/designee to file the USAC Form 466 or its equivalent. The carrier has ten (10) working days to provide this information to the Public Health Department/designee following the request for information and confirmation that the request from the Public Health Department is complete and accurate.
3. Upon the Public Health Department’s receipt of the Carrier information and the Public Health Department’s validation of the completeness and accuracy of the information and documentation, the Public Health Department/designee shall have ten (10) working days to file the USAC Form 466 or its equivalent and submit the required documentation.

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701 4th Avenue, Suite 1
Holdrege, NE 68949
Web site: tworiverspublichealth.com

Phone: 308.995.4778
Fax: 308.995.4073
Toll-Free: 888.669.7154

4. Within ten (10) working days from the date that the Public Health Department receives the Funding Commitment Letter and a copy of the USAC Form 467, and the Carrier has begun providing services, the Public Health Department/designee will sign and return the Form 467 or its equivalent to USAC.

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5. Once the Health Care Support Schedule is received from USAC, the Carrier will begin crediting the bill with the monthly recurring support amount indicated in the Health Care Support Schedule on the next available invoice or will issue a check to the Public Health Department for the discount amount. The Public Health Departments will not incur late fees nor receive disconnection or collection notices regarding payment of lines or equipment that will be reimbursed via USAC funding as long as the Public Health Department pays the Carrier the invoiced amount, by the due date established by the Carrier each month.

Deleted: agreed upon sum, equal to the bill minus expected USAC funding.

If either the Public Health Department or the Carrier are unable to meet a deadline expected above, it will provide written notification to the other party and and the parties will work in good faith to establish new filing deadlines, all of which meet the required deadlines set by the USAC.

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Public Health Department/designee

Organization: Two Rivers Public Health Department
Contact Name/Title: Terry Krohn, Director
Address: 701 4th Ave., Suite 1
City, State, Zip: Holdrege, NE 68949
Phone: (308)995-4778 Fax: (308)995-4073
E-mail: terry.krohn@tworiverspublichealth.com

Signature of Contact Person: _____

Agreed to this _____ day of _____, 2008

Carrier

Provider:
Contact Name/Title:
Address:
City, State, Zip:
Phone: Fax:
E-mail:

Signature of Contact Person: _____

Agreed to this _____ day of _____, 2008

Although we welcome the assistance of Commission to help resolve disputes, I deleted this specific Addendum. The right for a party to engage the Commission already exists and the PSC of Nebraska may not always be able to address a Federal USAC matter. I attempted to provide a mechanism for the special circumstances in the letter itself to compensate for the removal of this Addendum.

Deleted: Addendum A: Special Circumstances¶

¶ The purpose of this addendum is to recognize that special circumstances may occur during the USAC filing process, such as extended illnesses, which make the target deadlines unattainable by either or both the Public Health Department/designee and/or the carrier. Special circumstances will be handled on a case-by-case basis between the two parties involved in the USAC filing process, which is the Public Health Department/designee and their identified carrier. The identification of special circumstances should be handled in the following manner:¶

¶ It will be the responsibility of the party requiring the special circumstance to obtain agreement by the other party involved in the USAC filing process for a new target deadline. This will be done in writing by completing the Special Circumstance form (provided in Addendum B). ¶

Agreement of the new target deadline for filing must be documented in writing also by using the Special Circumstances form (provided in Addendum B). Both parties must sign this form and a final copy must be provided to the Public Service Commission. ¶

In the event that both parties involved cannot achieve an agreement on a new target deadline for the filing process, the Public Service Commission will provide assistance to both parties to develop the new target deadline. ¶

¶ Public Health Department . . . ¶

Organization: . . . Two Rivers Public Health Department¶

Contact Name/Title: . . . Terry Krohn, Director¶

Address: . . . 701 4th Ave., Suite 1¶

City, State, Zip: . . . Holdrege, NE 68949¶

Phone: . . . (308)995-4778 . . . Fax: (308)995-4073¶

E-mail: . . . terry.krohn@tworiverspublichealth.com¶

¶ Signature of Contact Person:

_____¶

¶ Agreed to this _____ day of _____, 2008¶

_____¶

Carrier:¶

Provider: ¶

Contact Name/Title: . . . ¶

Address: ¶

City, State, Zip: ¶

Phone: Fax: ¶

E-mail: ¶

¶ Signature of Contact Person:

_____¶

_____¶

Agreed to this _____ day of _____, 2008

Addendum A: Special Circumstances

The purpose of this addendum is to recognize that special circumstances may occur during the USAC filing process, such as extended illnesses, which make the target deadlines unattainable by either or both the Public Health Department/designee and/or the carrier. Special circumstances will be handled on a case-by-case basis between the two parties involved in the USAC filing process, which is the Public Health Department/designee and their identified carrier. The identification of special circumstances should be handled in the following manner:

It will be the responsibility of the party requiring the special circumstance to obtain agreement by the other party involved in the USAC filing process for a new target deadline. This will be done in writing by completing the Special Circumstance form (provided in Addendum B).

Agreement of the new target deadline for filing must be documented in writing also by using the Special Circumstances form (provided in Addendum B). Both parties must sign this form and a final copy must be provided to the Public Service Commission.

In the event that both parties involved cannot achieve an agreement on a new target deadline for the filing process, the Public Service Commission will provide assistance to both parties to develop the new target deadline.

Public Health Department

Organization: Two Rivers Public Health Department
Contact Name/Title: Terry Krohn, Director
Address: 701 4th Ave., Suite 1
City, State, Zip: Holdrege, NE 68949
Phone: (308)995-4778 Fax: (308)995-4073
E-mail: terry.krohn@tworiverspublichealth.com

Signature of Contact Person:

Agreed to this _____ day of _____, 2008

Carrier

Provider:
Contact Name/Title:
Address:
City, State, Zip:
Phone: Fax:
E-mail:

Signature of Contact Person:

Agreed to this _____ day of _____, 2008

Section Break (Next Page)

Addendum B: Special Circumstances Form

Nebraska Telehealth Hospital Network
Request for Special Circumstances
USAC-Rural Health Care Division Filing Process

Party making the request:

Designation (please circle one): **Public Health Department** **Carrier**

Name: _____

Title: _____

Organization: _____

Contact information:

Phone: _____ **Fax:** _____

E-mail: _____

Reason for request of extension of deadline for USAC filing process per the telecommunications agreement:

Proposed new deadline:

Signature: _____ **Date of request:** _____

Party Agreement of Request:

Designation (please circle one): **Public Health Department** **Carrier**

Date request received: _____

Person approving new deadline for USAC filing process:

Name: _____ **Title:** _____

Organization: _____

Contact Information:

Phone: _____

Fax: _____

E-mail: _____

Proposed new deadline accepted (please circle one): **YES** **NO**

If no, please contact the Nebraska Public Service Commission for assistance in determining a new deadline for the USAC filing process per the telecommunications agreement Addendum A previously signed by both parties.

Date Nebraska Public Service Commission contacted:

Deadline established by PSC:

Approving person: _____ **Title:** _____
Date: _____

Date PSC contacted both parties as to the new deadline:

Public Health Department: _____ **Carrier:**

Please note: The PSC representative will contact only those individuals listed on this request form from both the Public Health Department/designee and the carrier.